

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

November 13, 2006

3:00 p.m.

Office of Court Administration
205 W. 14th St., Suite 605
Austin, Texas

COMMENCEMENT OF MEETING

Judge Gladys Burwell called the meeting of the Guardianship Certification Board (GCB or Board) to order on November 13, 2006 at 3:22 p.m. The meeting was held at the Office of Court Administration in Austin, Texas. Notice of this meeting was posted on the GCB's website and distributed to interested persons in accordance with the GCB's public meetings policy.

ATTENDANCE OF MEMBERS

Meredith Musick, Executive Assistant at the Office of Court Administration, called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair
Jason Armstrong
Garth Corbett
Dr. Raymond Costello
Carol Patrice Dabner
Don D. Ford
Philip A. Grant
Marlane Meyer
Patti Turner
Robert Warach

All members attended via telephone conference call. Leah Cohen, Susan Eason, Gina D. Patterson and Janis Thompson did not participate. Others present were Carl Reynolds, Administrative Director, Katie Bond, Assistant General Counsel, and Meredith Musick, Executive Assistant, all of the Office of Court Administration and Antonio Franco, Director of the Guardianship Certification Program. Logan Spence from the Office of the Governor was also present..

PROPOSED FEES FOR GUARDIANSHIP CERTIFICATION PROGRAM

Ms. Bond reported that no written comments were received to the proposed fees for the guardianship certification program. Judge Burwell called for a motion that the Board adopt the fees as proposed: application fee \$25; Texas examination fee \$100; re-certification fee \$25; and late fee \$75. Upon motion and second, and there being no discussion, the chair called for an

individual vote. The motion carried with no opposition. The proposed fees will be forwarded to the Supreme Court for consideration.

UPDATE ON MINIMUM STANDARDS FOR CERTIFIED GUARDIANS

Ms. Bond reminded the Board that the National Guardianship Association (NGA) had agreed to allow the Board to use its standards as a starting point for development of Texas standards. NGA had asked to be informed as standards were proposed and adopted, which Ms. Bond has done. NGA had some concerns about the changes the Board had made to standards 14 and 15. A conference call to discuss is scheduled for Wednesday, November 15. Three NGA board members, Judge Burwell, Mr. Corbett (as chair of the minimum standards committee) and Mr. Ford (chair of the rules committee) will participate in the call. Justice Phil Johnson, the Supreme Court's liaison to the Board, may participate.

The Board discussed possible scenarios and concerns regarding adoption of minimum standards if NGA is opposed to the Board's proposed standards. Ms. Bond will report the outcome of the call to the full Board.

PUBLIC COMMENT

There were no public comments.

FUTURE BOARD MEETINGS

The next Board meeting is scheduled for Friday, January 19, 2007 beginning at 9:30 a.m. It will be held in the Office of Court Administration's offices in Austin.

ADJOURNMENT

On motion and second, the meeting was adjourned at 3:45 p.m.

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

January 19, 2007
9:30 a.m.

Office of Court Administration
205 W. 14th St., Suite 605
Austin, Texas

COMMENCEMENT OF MEETING

Judge Gladys Burwell called the meeting of the Guardianship Certification Board (GCB or Board) to order on January 19, 2007 at 9:35 a.m. The meeting was held at the Office of Court Administration in Austin, Texas. Notice of this meeting was posted on the GCB's website and distributed to interested persons in accordance with the GCB's public meetings policy.

ATTENDANCE OF MEMBERS

Meredith Musick, Executive Assistant at the Office of Court Administration (OCA), called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair
Leah Cohen, Vice-Chair
Jason Armstrong
Dr. Raymond Costello
Carol Patrice Dabner
Don Ford
Phillip A. Grant
Marlane Meyer
Janice Thompson
Patti Turner
Robert Warach

Ms. Thompson, Ms. Turner and Mr. Warach attended via telephone conference call. Garth Corbett, Susan Eason, Dr. Ann Elizabeth Lemke and Gina Patterson did not participate. Others present were Justice Phil Johnson and Jody Hughes, rules attorney, of the Supreme Court of Texas; Carl Reynolds, Administrative Director, Margaret Bennett, General Counsel, Katie Bond, Assistant General Counsel, and Meredith Musick, Executive Assistant, all of the OCA and Antonio Franco, Director of the Guardianship Certification Program. Members of the public present were Alex Jones, attorney for Department of Aging and Disability Services (DADS); Barb Scobey, a program supervisor at DADS; George Ford, Executive Director of Harris County Protective Services; and Terry Hammond, director of the National Guardianship Association.

MINUTES OF OCTOBER 21, 2006 GCB MEETING

Upon motion and second, the minutes were approved as submitted.

APPROVED GUARDIANSHIP CERTIFICATION RULES AND FEES

Justice Johnson introduced Mr. Hughes, who reviewed the changes the Supreme Court had made to the rules submitted for approval by the Board. He noted most changes were minor and made for clarification. Substantive changes were made to Rule VII, Requirements for Re-Certification (hours of continuing education required); Rule IX, Review and Appeal of Certification Denial; Rule XI, disciplinary criteria; and Rule XII, Complaints; Disciplinary Procedure.

The Board discussed the changes. Justice Johnson suggested the Board review the rules after a year or so to determine if it wished to recommend changes. Mr. Hughes confirmed that the rules as modified were adopted by the Supreme Court on December 12, 2006, which means they are in effect as of that date.

The Chair asked about where the rules would be published. Whether the rules will be included in the Texas Rules of Court is a determination to be made by the publisher, Thomson West. The State Bar Journal is probably not an appropriate forum for publication of the rules, but Mr. Reynolds will ask his contact person at the Bar about it.

The Board heard public comments on the rules. Mr. Jones noted that the requirement for sworn testimony will require that a person authorized by statute to give an oath must be present at the Board hearings; for example, a court reporter or notary public.

Mr. Hammond informed the Board that the National Guardianship Association is holding its annual conference in San Antonio October 6-9, and the Texas Guardianship Association is planning its spring conference. He asked how attendees at conferences where substantive training is provided could qualify to receive continuing education. Materials are to be submitted to Mr. Franco before a conference takes place; he will determine if the program qualifies for continuing education credit.

Mr. George Ford asked about county guardianship programs being exempted from fees, as DADS is. DADS is exempted by statute, and no other program is exempted. The Board does not have the authority to waive fees. Other programs seeking exemption must approach the legislature. Mr. Ford commented he would ask the Board to support legislation to establish an apprentice-ship type program.

Ms. Bond reminded the Board that the rules as proposed and submitted to the Supreme Court had required applicants for certification to pass a Texas exam and the national exam administered by the National Guardianship Foundation. Rule VI(d)(1) as adopted references "any other examination required and approved by the Board," which preserves the Board's intent to require a Texas and a national exam, but does not tie it to the NGF's test.

The Board discussed the issue, including whether or not to require two separate exams, possibly having one comprehensive Texas and national exam in future, and costs associated with taking the national exam. Mr. George Ford, Mr. Hammond, Ms. Scobey and Mr. Jones provided input.

A motion was made to table whether to require one test or two tests until such time as the Texas test is developed, the beta testers have taken it, and the results are available. The motion was seconded and carried.

Judge Burwell requested that NGF provide the dates and locations of exams in Texas. Mr. Hammond will ask Sally Hurme to contact Ms. Bond or Mr. Franco with that information.

RESOLUTION RECOMMENDING PROVISIONAL CERTIFICATION OR APPRENTICESHIP

Ms. Bond updated the Board on the status of the legislative process. The Legislative Council has drafted an amendment to Chapter 111, Government Code to allow the Board to adopt rules to allow for provisional certification, and also amends the relevant portions of the Probate Code to make clear provisionally certified guardians can provide guardianship services. Upon motion and second, the resolution supporting the amendments was adopted. The resolution will be presented to the legislature in support of the proposed legislation.

ADOPTION OF LANGUAGE FOR MINIMUM STANDARDS PREAMBLE

Ms. Bond reported that representatives of the Board, OCA and the Supreme Court had a conference call with NGA staff to address concerns with copyright issues. The preamble to the proposed minimum standards was revised to acknowledge NGA's contribution to the development of the Texas standards. A motion was made to amend the second paragraph of the preamble as presented. Upon second, and there being no discussion, the motion carried.

ALTERNATIVE DISPUTE RESOLUTION POLICY

The Board is required by statute (Government Code section 111.019) to adopt an alternative dispute resolution (ADR) policy. The policy proposed adapts the Court Reporters Certification Board's policy to conform with the Board's standards. Employee and contract disputes will be resolved pursuant to OCA's policies and procedures. The bulk of the policy deals with complaints filed against certified guardians. Ms. Bond summarized key points of the policy.

The Board discussed the proposed policy, including the fact that the rules do not address ADR. Mr. Reynolds suggested that Mr. Hughes review the proposed ADR policy in the context of the rules, and advise if a rule change is needed. Suggestions for changing the policy were: giving the Board representative or committee members present at the mediation full authority to act for the Board or have the entire Board present at the mediation; to require that party requesting mediation must pay the fees; may former probate judges act as mediators; and mediation is not mandatory if all parties do not agree. Upon motion and second, consideration of the policy was tabled pending review by Mr. Hughes and revisions by Ms. Bond. The motion carried.

GCB AND OCA REPORTS

In May 2006, a request was made to the clerks of the 20 largest counties to provide information on guardianship cases to OCA. Mr. Franco reviewed the reports and reminded the Board that

this reporting is voluntary. Judge Burwell reported a problem in reporting cases when a case is opened but a guardianship application has not been filed; e.g., when a guardian ad litem is appointed pursuant to a doctor's letter. The instructions can be revised to accommodate these situations, and advise counties to report them as guardian of the person, or another category can be added. The solution depends on why the information is being requested; that is, number of cases, or number and type of cases.

After discussion of the various data elements in the report, a Board member queried if the reports could be made mandatory. Mr. Reynolds explained the reporting elements were set by the Judicial Council. Collecting probate/guardianship data is part of the larger project to revamp all of the reporting forms.

Mr. Franco directed the Board's attention to a document he and Ms. Bond prepared, which will be used in identifying requirements for procurement of certification software for the three regulatory boards OCA supports. He asked for input from the Board if there are additional requirements. Mr. Reynolds told the Board that OCA had requested exceptional item funding for software from the legislature of \$70,000; however, the need was so urgent that funding has been found from existing resources to purchase the certification software.

LEGISLATIVE ISSUES

Judge Burwell provided the Board a list of bills that have been filed that will affect the operation of guardianships. She summarized three of those bills: House Bill 353, House Bill 342 and House Bill 417.

PUBLIC COMMENT

Mr. George Ford provided written comments to the Board. The only item not addressed during the course of the meeting is a concern that because the Texas test has not been written, there may be a time crunch in preparing for and taking the exams to meet the September 1 certification deadline.

SCHEDULE FOR FUTURE BOARD MEETINGS

The Board will meet by telephone conference, in mid- to late February. Once the beta testing is complete and when the NGF exam schedule is provided to the Board, Ms. Bond will e-mail possible dates to the Board after the beta testing is complete and she receives the NGF exam schedule.

The next quarterly Board meeting is scheduled for Friday, May 18, 2007 beginning at 11:00 a.m. at a location to be determined. The Board agreed minutes are required for all full Board meetings, whether conducted in person or by telephone.

In response to a question regarding Board terms expiring on February 1, 2007, Ms. Bond advised the Board that members still serve, even if the term expires and even if a member resigns, until

they are reappointed by the Supreme Court. She anticipates that the vacancy should be filled and members with terms expiring February 1, 2007 reappointed by Supreme Court this month.

ADJOURNMENT

On motion and second, the meeting was adjourned at 12:30 p.m.

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

February 27, 2007

3:30 p.m.

Office of Court Administration

205 W. 14th St., Suite 605

Austin, Texas

COMMENCEMENT OF MEETING

Judge Gladys Burwell called the meeting of the Guardianship Certification Board (GCB or Board) to order on February 27, 2007 at 3:59 p.m. The meeting was held at the Office of Court Administration in Austin, Texas. Notice of this meeting was posted on the GCB's website and distributed to interested persons in accordance with the GCB's public meetings policy.

ATTENDANCE OF MEMBERS

Meredith Musick, Executive Assistant at the Office of Court Administration (OCA), called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair

Jason Armstrong

Garth Corbett

Dr. Raymond Costello

Carol Patrice Dabner

Susan Eason

Don Ford

Phillip A. Grant

Marlane Meyer

Gina Patterson

Janice Thompson

Patti Turner

Robert Warach

All members attended via telephone conference call. Leah Cohen joined the meeting in progress. Others present were Carl Reynolds, Administrative Director; Margaret Bennett, General Counsel; Katie Bond, Assistant General Counsel; Lesley Ondrechen, Paralegal; and Meredith Musick, Executive Assistant, all of the OCA. Members of the public present were Tim McGinnis and Barb Scobey of the Department of Aging and Disability Services (DADS).

ADMINISTRATIVE DIRECTOR'S REPORT

Mr. Reynolds reported that OCA had requested an exceptional item to fund a certification division, which would indirectly benefit Board. The exceptional item was not granted on either the House or Senate side. In all likelihood, funds will not be appropriated.

LEGISLATIVE UPDATE - 80TH LEGISLATURE, REGULAR SESSION

Mr. Reynolds summarized three Senate bills affecting the Board: SB 505-criminal history; SB506-provisional certification; and SB 507-reimbursement of the Board's travel expenses to attend Board meetings. Although hearings have not yet been set, Mr. Reynolds or Ms. Bond plan to testify, and Board members are welcome to attend the hearings. Ms. Bond will inform the Board of the bills' progress. Mr. Reynolds stated that if funding is not appropriated for reimbursement for members' travel to Board meetings, OCA may be able to cover the expenses from existing resources, even if the certification division exceptional item is not granted.

CLOSED SESSION

The Board went into closed session at 4:06 p.m. to discuss Item IV - Employment Issues-Director of Guardianship Certification Program, in accordance with section 7(c) of its Public Meetings Policy. No vote was taken during the closed session. The Board reconvened in public session at 4:14 p.m.

APPOINTMENT OF COMMITTEE TO ASSIST IN SELECTION OF THE GUARDIANSHIP CERTIFICATION PROGRAM DIRECTOR

The Chair re-appointed Jason Armstrong, Gina Patterson and Bob Warach, who had served on the previous Director Selection Committee. The Director Selection Committee will review applications after OCA staff has screened them.

CERTIFICATION EXAM

Sally Hurme of the National Guardianship Foundation (NGF) joined the meeting via teleconference call. Given the change the Supreme Court made in Rule VI9d)(1), the question to be resolved by the Board is whether to require applicants to take both the national exam and the Texas-specific exam. Ms. Hurme explained that NGF's response to OCA's Request for Proposals was based on the assumption that the certification exam for Texas guardians would consist of two separate parts: the Registered Guardian (that is, national) exam and the Texas-specific exam.

The Board discussed the issue. The Board also discussed the long-term goal of developing a consolidated exam, but the consensus of the Board was it is not possible to prepare a consolidated exam in time to meet the September 1 deadline for certification. Ms. Thompson commented that cost is an issue for funding programs statewide. There is a shortage of guardians in Texas, and recruiting people to be guardians is difficult; the cost of two tests adds to the difficulty.

A motion was made to require guardians to take NGF's Registered Guardian exam and the Texas exam to be certified by the Board. Upon second, the motion carried. The Chair asked the Board to re-visit this issue in the future, and possibly develop a consolidated test for future use which would cover national and Texas-specific items.

A question was raised: if the Board goes to one consolidated test, would people have the same portability they have taking the Texas test and the Registered Guardian test. Ms. Hurme replied that once a person achieves Registered Guardian status, it is his or her responsibility to maintain that status by renewal every two years.

RULEMAKING PROCESS TO ADDRESS STATUTORY AMENDMENTS MADE BY 80TH LEGISLATIVE SESSION

Ms. Bond reviewed a proposed timeline for rulemaking with the Board. The timeline assumes that SB 506, providing for provisional certification, is passed by the legislature. She recommended a subcommittee comprised of the Board members on the Rules Committee, and those in the guardianship community interested in this issue. Ms. Bond named Colleen Colton, DADS, Steve Fields, Suzanne Cobb, Donna Baugh and Amy Gleason from the Guardianship Advisory Board; the Chair suggested the head of the Harris County guardianship program be included.

Philip Grant, Marlane Meyer, Don Ford, and Susan Eason, members of the Rules Committee, will serve on the Provisional Certification Subcommittee. Ms. Bond will contact the stakeholders, and will coordinate with Mr. Ford to convene the subcommittee.

APPLICATION FORMS AND PROCESSES

The Board reviewed the draft certification application form provided by Ms. Bond. She recommends a separate instruction sheet. The Board made suggestions for changes to the form. The Chair asked all Board members with comments and revisions to e-mail them to Ms. Bond so she can incorporate them into the form.

COMMITTEE ASSIGNMENTS

Members were assigned to the Director Selection Committee and Provisional Certification Rules Subcommittee during the course of the meeting. No other committee assignments are needed at this time.

PUBLIC COMMENT

There were no public comments.

SCHEDULE FOR FUTURE BOARD MEETINGS

The next Board meeting is scheduled for May 18, 2007 beginning at 11:00 a.m.. It will be held at the Texas Center for the Judiciary in Austin. Future meetings will be scheduled at the May meeting.

ADJOURNMENT

On motion and second, the meeting was adjourned at 5:03 p.m.

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

April 16, 2007
10:00 a.m.

Office of Court Administration
205 W. 14th St., Suite 605
Austin, Texas

COMMENCEMENT OF MEETING

Judge Gladys Burwell called the meeting of the Guardianship Certification Board (GCB or Board) to order on April 16, 2007 at 10:02 a.m. The meeting was held at the Office of Court Administration in Austin, Texas. Notice of this meeting was posted on the GCB's website and distributed to interested persons in accordance with the GCB's public meetings policy.

ATTENDANCE OF MEMBERS

Meredith Musick, Executive Assistant at the Office of Court Administration (OCA), called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair
Leah Cohen, Vice-Chair
Jason Armstrong
Garth Corbett
Don Ford
Phillip A. Grant
Marlane Meyer
Gina Patterson
Kathy Strong
Janis Thompson
Patti Turner
Robert Warach

All members attended via telephone conference call. Carol Patrice Dabner joined the meeting in progress. Dr. Raymond Costello, Susan Eason and Robert Warach did not participate. Others present were Carl Reynolds, Administrative Director; Margaret Bennett, General Counsel; Katie Bond, Assistant General Counsel; Lesley Ondrechen, Paralegal; and Meredith Musick, Executive Assistant, all of the OCA. Members of the public present were Tim McGinnis, Barb Scobey and Alex Jones of the Department of Aging and Disability Services (DADS). Margie Kyser and Baerbel Cleveland of the Department of Public Safety (DPS) attended the meeting as a resource regarding agenda item III, Criminal History Checks.

The Chair welcomed Ms. Strong to her first Board meeting. She confirmed that Ms. Strong had received the training required by Government Code Section 111.017 for new Board members.

LEGISLATIVE UPDATE - 80TH LEGISLATURE, REGULAR SESSION

Mr. Reynolds told the Board two of three bills affecting the Board have passed and are on the way to the governor for signature. Senate Bill 505, criminal history check and Senate Bill 506, provisional certification are awaiting signature; Senate Bill 507, reimbursement for Board members' travel to meetings, is scheduled for consideration this week. Mr. Reynolds stated that although funds were not specifically appropriated, OCA will ensure Board members are reimbursed if the bill passes.

CRIMINAL HISTORY CHECKS

A. Consideration of and possible action on various options and methods for obtaining criminal history checks

Ms. Bond identified three topics for discussion:

1. Will applicants obtain their own criminal history check and submit it to the Board, or will the results go directly to the Board.
2. What kind of check will the Board require - name or fingerprint? Texas or Texas and national?
3. Timing: will the Board require criminal history checks right away, or at a future date.

Ms. Kyser and Ms. Cleveland provided background information for the Board. The cost is \$15 for a Texas check, \$24 for a national check, and \$9.95 for the fingerprint service by DPS's contracted vendor. Ms. Kyser said it was best to have results sent directly to the Board; if the Board will require national checks, they must be sent to the Board and not the applicant. Ms. Cleveland noted that FBI rules require that an agency, not an individual applicant, request a national criminal history search. If the Board has an ORI number, then national search results can be sent directly to the Board. Ms. Kyser told the Board that name searches are not as reliable as fingerprint searches, and that many agencies and boards require fingerprint searches; e.g., teachers, nurses, chiropractors, process servers.

Ms. Kyser summarized how applicants may obtain fingerprints through DPS's contracted vendor, IBT. Applicants can obtain fingerprints from local law enforcement agencies, if local law enforcement is willing to perform that service, but it would take longer. By using IBT, DPS receives applicants' fingerprints electronically within one day. DPS and FBI responses are provided within 24 hours.

There was further discussion on name searches versus fingerprint searches, and national versus Texas-only searches. Comments were made by DADS representatives concerning possible duplication of criminal history searches by DADS and the Board, pending legislation that would permit DADS to share criminal history information with the Board, and cost of the fingerprint search.

Ms. Bond advised the Board that a rule change will be needed to require applicants to obtain a criminal history search as part of the application process. The Board wishes to be consistent in

its treatment of applicants from the beginning; therefore, the rule change should be made now. The consensus of the Board was to require a Texas and national fingerprint search.

B. Consideration of and possible action on amending Board rules

A motion was made to amend the rules to require applicants to obtain and cause to be sent directly to the Board the results of a fingerprint search for Texas and national criminal history. Upon second, a vote was taken, and the motion carried.

Ms. Bond told the Board that the Supreme Court has four administrative conferences scheduled in June, and one on May 21. Although a public comment period is not required, it has been the Board's practice to post proposed rules for comment in the past. The new rule to be drafted by the Rules Committee can be posted for a short public comment period. The proposed rule would then be submitted to the full Board at its May 18 meeting. Upon motion and second, the Board voted to authorize the Rules Committee to convene, draft language, publish it for comments and present the proposed rule to the Board on May 18. The rule change will be from requiring only an attestation that an applicant has no criminal history to requiring an attestation and a criminal history fingerprint search. The motion carried.

CONSIDERATION OF AND POSSIBLE ACTION ON BOARD AND STAFF ROLES IN CERTIFICATION

The Board considered the roles of staff and the Board in processing applications for certification. One option is that in circumstances where it is clear that an applicant meets, or does not meet, requirements, staff will take action and issue or deny certification. The Board discussed the matter, and agreed that their intent is to delegate that authority to staff, and no rule change is necessary.

A motion was made and seconded to delegate to Board staff the authority to review applications for certification and make decisions to deny or grant certification when decisions are clear-cut. After further discussion, the Board clarified that staff should seek assistance from the Board in making certification decisions in situations that are not clear. A vote was taken and the motion carried.

APPLICATION FORMS AND PROCESSES

The Board discussed and reached consensus on several items. The application for certification will be finalized and posted to the Board's website, accompanied by information regarding the proposed legislation and rule change to require Texas and national fingerprint criminal history searches. Applicants will be informed that applications will be held pending passage of legislation and adoption of rule changes. Certifications will be effective the date they are issued. A separate application for provisional certification will be required, and will be presented to the Board for approval at the May 18 meeting. The attestation will be required in addition to the criminal history searches.

Ms. Kyser told the Board that DPS can retain fingerprints. When certified guardians apply for re-certification, they will not have to be fingerprinted again. The FBI is currently not retaining them, but DPS can resend fingerprints to the FBI. The FBI requires payment for a new criminal history search, even though fingerprints are retained. DPS does not charge to re-check fingerprints, and will notify the Board if a certified guardian is arrested or has a criminal conviction during his or her certification period.

COMMITTEE ASSIGNMENTS

No further committee assignments are required at this time. The Rules Committee and the Provisional Certification Subcommittee of the Rules Committee are working.

PUBLIC COMMENT

There was no further public comment.

SCHEDULE FOR FUTURE BOARD MEETINGS

The next Board meeting is scheduled for May 18, 2007 at 11:00 a.m.. It will be held at the Texas Center for the Judiciary in Austin. Future meetings will be scheduled at the May meeting. Members of the Director Selection Committee will attend interviews of candidates for the Director position on May 18 before the 11:00 a.m. Board meeting.

ADJOURNMENT

On motion and second, the meeting was adjourned at 11:18 a.m.

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

May 18, 2007
11:00 a.m.

Texas Center for the Judiciary
1210 San Antonio, 8th Floor
Austin, Texas

COMMENCEMENT OF MEETING

Judge Gladys Burwell called the meeting of the Guardianship Certification Board (GCB or Board) to order on May 18, 2007 at 11:22 a.m. The meeting was held at the Texas Center for the Judiciary in Austin, Texas. Notice of this meeting was posted on the GCB's website and distributed to interested persons in accordance with the GCB's public meetings policy.

ATTENDANCE OF MEMBERS

Meredith Musick, Executive Assistant at the Office of Court Administration (OCA), called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair
Leah Cohen, Vice-Chair
Jason Armstrong
Garth Corbett
Carol Patrice Dabner
Don Ford
Phillip A. Grant
Marlane Meyer
Gina D. Patterson
Patti Turner
Robert Warach

Gina Patterson attended via telephone conference call. Leah Cohen joined the meeting in progress. Dr. Raymond Costello, Susan Eason, Kathy Strong and Janis Thompson did not participate. Others present were Carl Reynolds, Administrative Director; Margaret Bennett, General Counsel; Katie Bond, Assistant General Counsel; and Meredith Musick, Executive Assistant, all of the OCA. Members of the public present were Barb Scobey, manager of the guardianship program; Lawrence Hornsby, managing attorney for the enforcement unit; and Charlotte Breen, legal assistant, all of the Department of Aging and Disability Services (DADS).

ADMINISTRATIVE DIRECTOR'S REPORT

Mr. Reynolds told the Board that OCA's proposal for a certification division was not adopted by the Appropriations Committee; therefore, there are no funds to implement it. He is hopeful that Senate Bill 1305, which provides funding to support the Process Server Review Board in

particular, will be of some benefit to the GCB if it passes. Mr. Reynolds is accepting ideas for OCA's quarterly newsletter, CourTex.

CLOSED SESSION

The Board went into closed session at 11:25 a.m. to discuss Item III - Employment Issues- Director of Guardianship Certification Program, in accordance with section 7(c) of its Public Meetings Policy. The Board discussed the candidates for the position. No vote was taken during the closed session. The Board reconvened in public session at 11:54 a.m.

LEGISLATIVE UPDATE - 80TH LEGISLATURE, REGULAR SESSION

Mr. Reynolds updated the Board on Senate Bills 505, 506 and 507. All three passed, and all three have been signed by the governor. Senate Bills 505 and 506, regarding criminal history and provisional certification, were effective the date they were signed, April 25, 2007. Senate Bill 507, reimbursement for Board members, will go into effect September 1, 2007. Although no funds were appropriated for reimbursement, Mr. Reynolds anticipates that OCA can cover the expenses with no problems.

CERTIFICATION EXAM UPDATE

Sally Hurme of the National Guardianship Foundation (NGF) joined the meeting via conference call. She reported on the results of the four exams already held (in Hurst, Waco, San Antonio and Abilene). An exam is taking place in Houston today, and two more are scheduled in Lubbock and in Austin. 103 guardians have sat for the exams, and about 70 more are registered for the coming exams.

Ms. Hurme responded to questions from the Board regarding pass/fail numbers, number of people re-taking the exam in Houston, and the availability of pre-test materials provided by the National Guardianship Association. She left the meeting when questions were concluded.

The Board recessed at 12:08 p.m. and reconvened at 12:48 p.m.

EMPLOYMENT ISSUES - DIRECTOR OF GUARDIANSHIP CERTIFICATION PROGRAM

Mr. Reynolds announced that Lesley Ondrechen had been selected as Guardianship Certification Program Director.

PROPOSED AMENDMENTS TO RULES GOVERNING GUARDIANSHIP CERTIFICATION

Provisional Certification

Mr. Ford reported that the Provisional Certification Subcommittee of the Rules Committee convened to develop rules for provisional certification. The Subcommittee sought and received input from the interested members of the public, guardianship programs, and other stakeholders. The existing rules were modified as necessary, and Rule XIV was added to provide for provisional certification. Provisional certification allows people who do not meet certification

criteria to gain experience so they can be certified. Mr. Ford summarized the responsibilities of the provisionally certified guardian's supervisor, the role of the provisionally certified guardian, and the application requirements for provisional certification. The Subcommittee agreed that provisional certification would be limited to one two-year period. Ms. Bond added that the Board's approval is sought to publish the proposed rules for a short comment period.

After discussion, a motion was made to submit the proposed rules for public comment. Upon second, a vote was taken and the motion carried. Comments on the proposed rules will be due on June 4. The Board will convene for a short meeting after that date to review public comments and then submit the proposed rules to the Supreme Court for approval and adoption.

A. Criminal History Information

Margie Kyser and Baerbel Cleveland of the Department of Public Safety (DPS) joined the meeting via teleconference call as a resource for the Board. The Board discussed the merits of a fingerprint search, secure name search and simple name search. Ms. Kyser noted that DPS's vendor has 68 locations in Texas, with more planned.

The Board reviewed comments from DADS and from county guardianship programs. Ms. Scobey discussed DADS' concerns regarding fingerprint searches, particularly national searches: they exceed current requirements in law; they are burdensome, especially on smaller programs; fingerprints may be rejected; and they subject DADS' employees to multiple criminal history searches. The Board discussed sharing criminal history information between it and DADS. Ms. Kyser stated that criminal history information can be shared so long as the applicant gives permission and so long as both entities receiving the information have an ORI number. Ms. Bond noted that the Board has the required ORI number so it can receive FBI criminal history searches via DPS.

Ms. Bond noted that DPS retains the fingerprints, and the Board would receive notification of arrest by anyone who is certified. Notification is available only when a fingerprint search is done, not with a simple or secure name search. To address some of DADS' concerns about duplication of searches, it was suggested that language be added to the proposed rules to permit the Board to accept a criminal history search obtained within 90 days of the application for certification.

A motion was made to approve the change to section VI(g) of the Board's rules, requiring an applicant to obtain his or her criminal history record within 90 days of the application for certification, and to adopt the proposed amendment. The motion was seconded. Mr. Grant proposed language that the criminal history search can be obtained no earlier than 90 days preceding the date of submission of the application.

The motion was amended to adopt Mr. Grant's proposed language. Upon second, a vote was taken and the motion carried. Another motion, to move forward to submit the amended rules on

criminal history to the Supreme Court for adoption, was made and seconded. A vote was taken, and the motion carried.

APPLICATION FORMS AND PROCESSES

The Board reviewed drafts of the application for provisional certification and accompanying instruction sheet. The Board discussed the necessity for an additional application form if an applicant does not meet the qualifications for certification and wishes to apply for provisional certification. Staff will notify applicants by letter. Because a certified guardian supervisor must sign the provisional certification application, another application is necessary.

The Board discussed whether to require another criminal history check when a provisionally certified guardian moves to full certification. The consensus of the Board was to require a new criminal history search if full certification is granted more than a year after the person is provisionally certified. The proposed provisional certification rules will be changed to reflect this.

A motion was made that if a provisionally certified guardian applies for full certification within one year of obtaining provisional certification, the applicant will not be required to obtain a new criminal history search. The motion was seconded, a vote taken, and the motion carried. The new provisions will be added to the proposed rules as Rule XIV(g) and included in the rules to be posted to the Board's website for public comment.

COMMITTEE ASSIGNMENTS

No assignments were needed.

PUBLIC COMMENT

Ms. Scobey requested clarification of the criminal history issues decided by the Board. She asked if the Board would consider a waiver of the fingerprint requirement if the FBI was not able to process an applicant's fingerprints. The Board's consensus was a waiver would be considered to accept a Criminal Justice Information Search (CJIS), providing the FBI verified the fingerprints were not usable. Ms Scobey noted that, in light of the Board's decision to require a fingerprint search, DADS will start doing fingerprint, not secure name, searches.

SCHEDULE FOR FUTURE BOARD MEETINGS

The next Board meeting is scheduled for June 5, 2007, at a time to be determined, to discuss provisional certification rules and any other items as may be necessary. The Board will also meet on July 27, 2007, at 11:00 a.m. CDT at OCA's offices in Austin. Future meetings will be discussed on July 27.

ADJOURNMENT

On motion and second, the meeting was adjourned at 2:15 p.m.

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

June 5, 2007
12:00 noon

Office of Court Administration
205 W. 14th St., Suite 733
Austin, Texas

COMMENCEMENT OF MEETING

Judge Gladys Burwell called the meeting of the Guardianship Certification Board (GCB or Board) to order on June 5, 2007 at 12:05 p.m. The meeting was held at the Office of Court Administration in Austin, Texas. Notice of this meeting was posted on the GCB's website and distributed to interested persons in accordance with the GCB's public meetings policy.

ATTENDANCE OF MEMBERS

Lesley Ondrechen, director of the Guardianship Certification Program, called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair
Leah Cohen, Vice-Chair
Jason Armstrong
Garth Corbett
Don D. Ford
Marlane Meyer
Kathy Strong
Patti Turner

All members attended via telephone conference call. Dr. Raymond Costello, Carol Patrice Dabner, Susan Eason, Phillip A. Grant, Gina D. Patterson, Janis Thompson and Bob Warach did not participate. Others present were Katie Bond, Assistant General Counsel, and Lesley Ondrechen, Director of the Guardianship Certification Program. Members of the public present at the meeting were Tim McGuinness, Alex Jones and Barbara Scobey, Texas Department of Aging and Disability Services (DADS).

PROPOSED AMENDMENTS TO RULES GOVERNING GUARDIANSHIP CERTIFICATION

Provisional Certification

Don D. Ford, Chair of the Rules Committee, reported that amendments to the rules providing for provisional certification had been posted for public comment, and the comment period expired on June 4, 2007. Comments received from DADS and a probate judge were provided to the Board prior to the meeting.

Alex Jones presented DADS' comments to the Board. The five areas of concern are: an employee relationship is implied by the word "supervisor;" provisionally certified guardian is the only person allowed to report changes of name and address to the Board; consequences to supervisor for the actions of a provisionally certified guardian; supervisor's responsibility for provisionally certified guardian's work; and only one two-year provisional certification period.

The Board discussed each comment and DADS' proposed new language for the affected rules. In particular, the Board emphasized that a supervising guardian of a provisionally certified guardian must perform a supervisory, rather than merely a mentoring, role. Ms. Ondrechen pointed out that the last definition in Rule II should be lettered "q", not "o". On motions and seconds, the Board voted to make no changes to proposed Rules II(o), XIV(c)(3), XIV(d), and XIV(d)(1)(A). On motion and second, the Board agreed to accept DADS' wording on Rule XIV(f), permitting an extension of a provisional certification period if a waiver is sought and approved by the Board. On motion and second, the Board approved the proposed Rules as amended, and directed that the rules be submitted to the Supreme Court for approval. All motions carried.

Criminal History

Katie Bond reported that the Supreme Court rules attorney suggested changes to the language in proposed Rule VI(g) to set out the process for applicants to obtain their criminal history searches and have them sent to the Board. The Supreme Court adopted the new rules and sent them to the clerk of the court on May 29. Copies will be sent to the Board when the order is received from the Supreme Court.

FUTURE BOARD MEETINGS

The next Board meeting is scheduled for Friday, July 27, 2007 beginning at 11:00 a.m. It will be held in the Office of Court Administration's offices in Austin.

ADJOURNMENT

On motion and second, the meeting was adjourned at 12:53 p.m.